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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,143	07/03/2003	Richard J. Camarota	ITC C-23A	6841
23474	7590	03/07/2006	EXAMINER	
FLYNN THIEL BOUTELL & TANIS, P.C. 2026 RAMBLING ROAD KALAMAZOO, MI 49008-1631			SAWHNEY, HARGOBIND S	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

11A

<b>Office Action Summary</b>	Application No. 10/613,143	Applicant(s) CAMAROTA ET AL.	
	Examiner Hargobind S. Sawhney	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 44-82 is/are pending in the application.
- 4a) Of the above claim(s) 45,47,50-53,55-59,64,65,68-71 and 74-82 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44,46,48,49,54,60-63,66,67,72 and 73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                        |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/3/03</u> . | 6) <input type="checkbox"/> Other: _____   |

### **DETAILED ACTION**

1. The response to the restriction requirements filed on February 10, 2005 has been entered. Accordingly:

- Claims 1-43 have been canceled; and
- New claims 44-82 have been added.

2. On February 22, 2006, the examiner and Mr. Ronald Tanis, the attorney, discussed the original restriction requirements mailed on January 7, 2005. Mr. Tanis suggested that species II and III covering figures 14-19, and species V and VI covering figures 20A and 21 presented in the original restriction requirements should be consolidated. Technical bases justifying the suggestions were found convincing. Therefore, the examiner informed Mr. Tanis that the previous restriction requirements will be withdrawn, and new restriction requirements incorporating the above-indicated suggestions will be used for further examination of the application.

The revised restriction requirements are detailed in section 3 of this office action. Based on the new restriction requirements, Mr. Tanis provisionally elected Species II covering figures 14-19, and further identified claims 44, 46, 48, 49, 54, 60-63, 66, 67, 72 and 73, which are readable on the elected figures 14-19.

A copy of the interview summary is attached herewith.

### ***Election/Restrictions***

3. As best understanding, this application contains claims directed to the following patentably distinct species of the claimed invention:

Species I     Figures 12 and 13

Species II    Figures 14-19

Species III   Figures 20,21 and 25

Species IV   Figures 20A and 21

Species V     Figures 21

Species VI    Figures 22-24, 26 and 27

Species VII   Figures 28 and 29

Species VIII   Figures 30

Species IX    Figures 31 and 32

Species X     Figures 33

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. None of the claims is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

4. During a telephone conversation with Mr. Tanis, Ronald on February 22, 2006 a provisional election was made with traverse to prosecute the invention of Species II, Figures 14-19, claims 44, 46, 48, 49, 54, 60-63, 66, 67, 72 and 73. Affirmation of this election must be made by applicant in replying to this Office action. Claims 45, 47, 50-53, 55-59, 64, 65, 68-71, 74-82 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

### ***Double Patenting***

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

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1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 44, 60-62 and 66 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 11, 28 and 37 of U.S. Patent No. 6,592,240 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other as detailed below.

Instant Application	U.S. Patent No.:	Discussion on differences, and additional
10/613,143	6,592,240 B2	References:

Claims 44	Claim 11	<p>US Patent ('240 B2), Claim 11, lines 1-9, meets most of the limitations of the Claim 44 of the instant application. US Patent ('240 B2).</p> <p>However, US Patent ('468 B2), Claim 1, lines 1-11, does not specifically recite "the first and second end portions flanking a hand graspable portion."</p> <p>Further, the limitation "the first and second end portions flanking a hand graspable portion" has been broadly interpreted as – the first and second end portions neighboring a hand</p>
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Instant Application 10/613,143	U.S. Patent No.: 6,592,240 B2	Discussion on differences, and additional References:
		<p>graspable portion--. Because of continuity of the handle structure, which is operational requirement, the claim 11 of ('240 B2) meets the limitation indicated above.</p> <p>Thus, US Patent ('240 B2), Claim 11, lines 1-9, meets the limitations of Claim 44 of the instant application.</p>
Claims 60, 61 and 62	Claims 1 and 5	<p>US Patent ('240 B2), Claim 1, lines 1-5, 18, 19, 21 and 22, meets of the limitations, except the following, of the Claim 60 of the instant application.</p> <p>US Patent ('240 B2), Claim 5, lines 4-6, recites: the first bracket having a recess fixedly receiving the reduced diameter portion of first end portion of the bar; and an illuminator unit positioned in the first end bracket, and aimed at the bar inboard end.</p> <p>Thus, claim 1 in combination with its dependent claim 5 meets of the limitations of claims 60, 61 and 62.</p>

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Instant Application 10/613,143	U.S. Patent No.: 6,592,240 B2	Discussion on differences, and additional References:
Claims 60 and 66	Claim 28 and 37	US Patent ('240 B2), Claim 28, lines 1-3 and 6-11, meets of the limitations of the Claim 60 of the instant application.  US Patent ('240 B2), Claim 37, lines 1-3, meets of the limitations of the Claim 66 of the instant application.

It would be have been obvious to one of ordinary skill in the art at the time of the invention to meet the limitations of claims 44, 60-62 and 66 with the claimed features of claims 1, 5, 11, 28 and 37 of U.S. Patent No.: 6,592,240 B2.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.



9. Claims 44, 46, 49, 60, 62 and 67, are rejected under 35 U.S.C. 102(e) as being anticipated by Grady et al. (US Patent No.: 6,553,629 B2), hereinafter referred as Grady.

Regarding claims 44, 46, 49, 60, 62 and 67, Grady discloses a lighted handle 10 (Figure 1) comprising:

- an elongated light-transmitting member 12 (Figures 1 and 5, column 3, lines 43-45) having a first end engaged with a mounting member 16, and a second end 14 engaged with a mounting member 14 (Figure 1, column 3, lines 15-170; the first end portion 16 and second end portion 14 flanking a hand graspable portion – middle portion connecting both the end portions 14 and 16 (Figure 1); the mounting members 16 and 14 including respective open portions 40' - the combination including elements 24 and 46 - fixedly receiving the end portions 16 and 14 (Figure 4, column 3, lines 59-65); a narrow beam light transmitting diode (LED) 40 fixedly located within the first mounting member 16 directing light longitudinally towards the light-transmitting member 12 (Figures 1 and 4, column 4, lines 26-34); the first mounting member including an open portion 46' including: a relatively larger diameter portion outboard portion 46 receiving the first end portion of the light-transmitting member 12 (Figures 1 and 4), and a relatively smaller diameter inboard portion receiving the LED 40 (Figures 1 and 4); the light-transmitting member 12 including a first end portion with free end 28 (Figures 1 and 4, column 3, lines 44 and 45), which being

positioned adjacent to LED 40 (Figure 4); the LED 40 operable with relatively low voltage and including electric conductors (Figure 4, column 4, lines 28-40);

- a reflecting member 68 positioned in the second recess 40' - the combination including elements 24 and 46 - inboard facing the second end of the light transmitting bar 12 (Figure 1 and 4, column 4, lines 15 and 16). Note: the internal positioned in the first mounting members, and that in the second member are mirror-image identical.

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 48 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grady et al. (US Patent No.: 6,553,629 B2), hereinafter referred as Grady.

Regarding Claim 48, Grady ('629 B2) discloses a lighted handle comprising:

- a first mounting bracket 24' - the combination including elements 16, 20 and 24 – including a leg bearing a recess 46, and the leg curving – the semi-circular outer periphery- spaced from a foot 16 with a mounting surface (Figure 1, column 4, lines 24-26, 45 and 46);; the open portion

- defining a recess 46 (Figure 4, column 3, lines 59-65); the leg free end portion being hollow, and indented by a recess 46 (Figure 1); and
- the light-transmitting member 12 being formed as a bar (Figure 1, column 3, lines 22-24); the light-transmitting bar 12 and the bracket 24' having an adjacent outer peripheral surfaces (Figure 1).

However Grady ('629 B2) does not teach the peripheral surface of the light-transmitting rod and that of the bracket being mutually flush, and the bar continues the peripheral contour of the bracket in a visually unbroken manner.

It would be have been obvious to one of ordinary skill in the art at the time of the invention to shape and size either the transmitting bar or the mounting bracket to provide visually unbroken contours, since it has been held that matters relating to ornamentation only which has no mechanical function cannot be relied upon to patentably distinguish the claimed invention over prior art.

Regarding Claim 54, Grady discloses a lighted handle comprising LEDs as light sources. However, Grady does not specifically teach the LED having less than 5 volts drop across, and current flow less than 100 milliamps.

It would be have been obvious to one of ordinary skill in the art at the time of the invention to make use of an LED having voltage drop and current flow as claimed by the applicant, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

12. Claim 63 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 5 of U. S. Patent No. 6,592,240 B2 in view of Knauer et al. (US patent No.: 6,450,677 B1).

Claims 1 and dependent claim 5 of US Patent ('240 B2) jointly claim the first bracket having a recess fixedly receiving the reduced diameter portion of first end portion of the bar. However, the combination of claims 1 and 5 do not specifically claim either the peripheral wall of the light-transmitting wall or that of the recess being tapered, which produces angularly oriented axis of the recess and that of the light-transmitting bar.

On the other hand, Knauer et al. ('677 B1) discloses a fiber optic lighting system including a coupling 62 including a tapered recess 64 fixedly receiving a light-transmitting rod end 58a (Figure 6, column 7, lines 29-42).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the lighted handle of US Patent ('240 B2) by providing either the recess with tapered wall as taught by Knauer et al. ('677 B1) for the benefits of detachably fixing the end of the light-transmitting red with mechanical interference between the walls.

13. Claims 72 and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grady et al. (US Patent No.: 6,553,629 B2) in view of Parson et al. (US Patent No.: 6,511,214 B1).

Regarding claims 72 and 73, Grady ('629 B2) discloses a lighted handle comprising an LED 40 operating as a light source. However, Grady ('629 B2) does not

specifically teach the LED light source providing light output of night vision preserving colored hue.

On the other hand, Parson et al. (214 B1) discloses an LED light emitting device including an LED based light-emitting source 60 (Figures 1 and 6, column 9, line 42). Parson et al. (214 B1) further teaches the use of red-light emitting LEDs for night vision preservation (Figures 1 and 8 column 3, lines 25-30).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the lighted handle by providing the LED emitting red light for the benefits of night vision preservation.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Crumley (U.S. Patent No. 6,065,852)

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S. Sawhney whose telephone number is 571 272 2380. The examiner can normally be reached on 6:15 - 2:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571 272 2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HSS

2/24/2006



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PRIMARY EXAMINER